



RIN 3064-ZA27

Request for Information on the Federal Deposit Insurance Corporation's

Supervisory Approach to Examinations During the Pandemic

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for information (RFI).

SUMMARY: The FDIC is seeking information and comments from financial institutions for which the FDIC is the primary Federal regulator regarding the FDIC's supervisory approach to examinations during the pandemic, including on-site and off-site activities, use of technology, and communication methods.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by RIN 3064-ZA27, by any of the following methods:

- *Agency Website:* <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Follow the instructions for submitting comments on the Agency website.
- *Email:* comments@fdic.gov. Include RIN 3064-ZA27 in the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments RIN 3064-ZA27, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m., EST.

- *Public Inspection:* All comments received will be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications/>, including any personal information provided, for public inspection. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226, or by telephone at 877-275-3342 or 703-562-2200.

FOR FURTHER INFORMATION CONTACT:

Rae-Ann Miller, Senior Deputy Director, Division of Risk Management Supervision, rmiller@fdic.gov, 202-898-3898; Michelle L. Cahill, Acting Senior Deputy Director, Division of Depositor and Consumer Protection; Bill Piervincenzi, Supervisory Counsel, Supervision, Legislation and Enforcement Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background Information

The FDIC has been performing on-site examinations of FDIC-supervised institutions since 1934, during which examiners review institutions' records and meet with institution management and Boards of Directors to discuss findings. Safety and soundness examinations are conducted in accordance with Section 10(d) of the Federal Deposit Insurance Act (FDI Act). Section 10(d) requires the appropriate federal banking agency for an insured depository institution to conduct a full-scope, on-site examination at least once every 12 months, but permits a longer cycle—at least once every 18 months—for insured depository institutions that meet certain criteria.¹

The FDIC also performs consumer compliance and Community Reinvestment Act (CRA) examinations to promote adherence to federal consumer protection and fair

¹See Section 10(b) and 10(d) of the Federal Deposit Insurance Act. (12 U.S.C. 1820). *See also* 83 FR 67033 (December 28, 2018).

lending laws and regulations and the CRA. FDIC policy requires full-scope consumer compliance examinations to be conducted every 12 to 36 months depending on certain criteria such as an insured depository institution's total assets and prior consumer compliance and CRA examination ratings. The Gramm-Leach-Bliley Act established intervals between CRA examinations for insured depository institutions with assets at certain levels and based on specific criteria.

For a number of years prior to the Coronavirus Disease 2019 (COVID-19) pandemic, the FDIC has been leveraging advances in technology to allow examiners to conduct certain examination functions off-site that were previously performed on-site. The FDIC believes this leveraging of technology has improved the efficiencies in the examination process and helped reduce burden on the institution, enabling examiners to be more targeted and risk focused in the work performed on-site.

On March 13, 2020, by Proclamation 9994, the President of the United States declared a National Emergency concerning the COVID-19 pandemic. The next day, the FDIC Chairman issued a mandatory telework order for all employees, consistent with the FDIC's Continuity of Operations Plan and its continued balancing of risks and mitigations under the FDIC Pandemic Influenza Plan. This telework order provided, among other things, that unless otherwise directed, all examination activity of FDIC-supervised institutions to be conducted off-site.

By leveraging prior efforts and existing technology systems, examiners have continued the FDIC examination program despite pandemic conditions.

In light of the experience of the last year, and as we look ahead, the FDIC wants to leverage what worked well in the off-site examination context to see what lessons we can learn about streamlining and improving the efficiency and efficacy of our examinations as we plan for future examinations.

Off-site/On-site Procedures

Prior to the pandemic, the FDIC established the following instructions for examiners regarding expectations for off-site and on-site examination activities. The FDIC is in the process of reviewing those instructions and identifying opportunities to enhance them by incorporating lessons learned from the pandemic.

Safety and Soundness

Each safety and soundness examination has an on-site component, consistent with the requirements of Section 10(d) of the Federal Deposit Insurance Act. Per the FDIC's Risk Management Supervision (RMS) Manual of Examination Policies, Section 21.1 Examination Planning,² during the examination planning stage, the FDIC Examiner-in-Charge (EIC) is expected to identify examination activities that are appropriate for off-site review and those that are better suited for on-site review after considering the institution's business model, risk profile, and complexity.

The determination of the extent of off-site or on-site for each examination activity depends, in part, on the type and extent of electronic information available and whether the activity requires interaction with institution personnel.

Examiners are encouraged to conduct a number of activities off-site, such as:

- Reviewing historical financial and supervisory data and performing initial analysis of capital, earnings, liquidity, and sensitivity to market risk; and
- Reviewing the institution's written policies and procedures.

Regarding credit review, examiners may conduct the following types of actions off-site:

- Reviewing loan policies; and
- Reviewing performance report ratio data and management reports.

² <https://www.fdic.gov/regulations/safety/manual/section21-1.pdf>.

Examiners are currently expected to conduct certain activities on-site:

- Conducting in-depth discussions with management, including exit meetings;
and
- Observing and assessing institution operations and internal controls.

Consumer Compliance and CRA

FDIC compliance and CRA examinations primarily involve three stages: pre-examination planning; review and analysis, both off-site and on-site; and communicating findings to institution management. Pre-examination planning is generally completed off-site in advance of the examination start date.

The extent to which consumer compliance and CRA examinations are conducted off-site varies. Examiners generally consider conducting certain examination activities off-site to promote efficient and effective examinations, and to minimize disruptions to an institution's normal business activities; other examination activities are more efficiently and effectively conducted on-site. For example, consumer compliance staff have found that, generally, it is more efficient to perform robust transaction testing on-site. In addition, consistent and open communication benefits from in-person meetings with institution management.

FDIC Use of Technology

The FDIC regularly evaluates and implements technology and process changes to improve regulatory effectiveness and efficiency. Some examples of technology improvements include:

- File exchange: The FDIC has many systems that permit financial institutions to provide electronic documents to the FDIC on a secure basis.

- Interactive software: The FDIC has been able to leverage technology to collaborate during examinations with other regulators as well as bankers.

Request for Comments from Interested Parties

The FDIC is issuing this RFI seeking feedback and comments from FDIC-supervised financial institutions regarding the FDIC's supervisory approach to examinations during the pandemic, including the impact of off-site activities on institution operations, the effectiveness of technology used to carry out off-site activities, and the effectiveness of communication methods used to support off-site activities. Specifically, the FDIC is seeking comment on what worked well in the off-site examination context to inform plans for future examinations, consistent with applicable law and the purpose of examinations.

The FDIC encourages comments from financial institutions for which the FDIC is the primary regulator. The FDIC also welcomes comments from other interested members of the public, including, but not limited to, other financial institutions or companies, individual depositors and consumers, consumer groups, trade associations, and others.

Suggested Topics for Commenters

On-site and Off-site Activities

1. In your experience, what FDIC examination activities have been best adapted to completion on an off-site basis? Please explain, including why these activities are performed best or are most effective using an off-site approach.
2. In your experience, what FDIC examination activities have not been as well suited to completion on an off-site basis? Please explain, including why these activities are best suited for completion on or are most effective using an on-site approach.

3. What criteria are useful in determining FDIC examination activities best suited for completion on either an off-site or on-site basis? Please explain.

Use of Technology

4. In your experience, what FDIC technologies used in conjunction with off-site examination activities have worked well? Please explain.
5. In your experience, what FDIC technologies used in conjunction with off-site examination activities could be improved? Please explain.
6. What new or emerging technologies would support additional off-site examination activities? Please explain, including any potential impediments to adoption or deployment.

Communication Methods

7. What communication methods used during FDIC off-site examinations worked well? Please explain.
8. What communication methods used during FDIC off-site examinations could be improved? Please explain.
9. Should the FDIC continue to use secure email as an alternative to hardcopy mail, including when providing outgoing supervisory correspondence? Please explain.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on August 5, 2021.

James P. Sheesley,

Assistant Executive Secretary.

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